

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Ruth Marleen Hall Walcynski,

Plaintiff,

vs.

ORDER

Civil No. 07-1342 ADM/RLE

St. Louis County,

Defendant.

Thomas F. Andrew, Esq., Andrew & Bransky, P.A., Duluth, MN, argued on behalf of the Plaintiff.

Dale O. Harris, Esq., Assistant St. Louis County Attorney, Duluth, MN, argued on behalf of the Defendant.

On December 17, 2007, the undersigned United States District Judge heard oral argument on Defendant St. Louis County's Motion for Summary Judgment [Docket No.16]. This Order briefly summarizes the reasons stated at oral argument for the Court's decision to grant Defendant summary judgment.

Plaintiff's claim that Defendant discriminated against her by failing to promote her in 2005 is time-barred.¹ Failure to promote is a discrete discriminatory act for which Plaintiff had to file her charge with the Minnesota Department of Human Rights ("MDHR") within 300 days. National R.R. Passenger Corp. v. Morgan, 536 U.S. 101, 113 (2002). Plaintiff was notified that she was not selected for promotion on or about April 2, 2005, but she did not file her charge with the MDHR and EEOC until May 24, 2006; more than one year after the alleged discriminatory

¹ Because Plaintiff Hall Walcynski conceded that her claim of discrimination regarding the failure to promote her in 2002 is time-barred the Court did not address that claim.

act and well outside the statutory time period.

Plaintiff's claim that Defendant discriminated against her when they allowed the eligibility list to expire in 2006 is dismissed because she cannot establish a prima facie case.² Plaintiff failed to demonstrate that allowing the eligibility list to expire amounted to an adverse employment action. Instead, the evidence demonstrates that her tangible working conditions, salary, duties, etc., were the same the day before and after the list expired.

For the reasons stated at oral argument and summarized here, Defendant's Motion for Summary Judgment is **GRANTED**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

BY THE COURT:

s/Ann D. Montgomery
ANN D. MONTGOMERY
U.S. DISTRICT JUDGE

Dated: December 17, 2007.

² Plaintiff conceded that she had no direct evidence of discrimination and proceeded under the McDonald-Douglas framework.